

Amendment
Serial No. 10/030,098
Attorney Docket No. 011713

REMARKS

Claims 1-12 are pending in the present application and are rejected.

Preliminary Comments

Applicants thank the Examiner for the courtesies extended in the personal interview of December 4, 2006. Applicants' official response to the comments contained in the Interview Summary are incorporated herein.

Applicants' Response to Claim Rejections under 35 U.S.C. §103

Claim 1 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker et al. (U.S. Patent No. 6,108,639) in view of the article abstract, "Pat Ludwick: Kicking the Tires for Used Car Buyers" ("the Pat Ludwick article") and Official Notice.

It is the position of the Office Action that Walker discloses the invention as claimed, with the exception of disclosing inputting an order for a surrogate investigation of said product from the user to said first information-processing apparatus, and transmitting an instruction on said surrogate investigation from said first information-processing apparatus to said second information processing apparatus. The Office Action relies on Official Notice to provide this teaching. Walker also does not disclose that the product is in a seller's possession at a time of the investigation. The Office Action relies on the Pat Ludwick article to provide this teaching.

In response, Applicants respectfully submit that there is no suggestion or motivation in the art to combine Walker and the Pat Ludwick article. Walker discloses a conditional purchase offer (CPO) management system for collectibles. This system is designed to provide a buyer-

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driven market for collectibles such as stamps, coins, or jewelry. First, a potential buyer enters a description of the desired goods into the central controller 200. This description may include the condition of the item, the price and the expiration date associated with the CPO. This description acts as an offer to purchase an item. See column 10, lines 5-13. Next, a search is performed for matching sellers. When a seller is found, the seller may then accept the CPO on the terms provided by the buyer. See column 11, lines 13-32. Alternatively, the seller may submit a counter offer which the buyer may then accept or refuse. See column 11, lines 47 to column 12, line 34. Once a CPO is accepted, the item is physically shipped to a dealer/authenticator 150. The dealer/authenticator 150 validates that the item actually exists, and authenticates that it is in the condition stated by the seller and requested by the buyer. Thus, the item is in the possession of the dealer/authenticator at the time of the investigation.

The Pat Ludwick article discusses a company called "Auto Critic" which sells its services of auto appraisals by licensed mechanics. The article contains no suggestion or disclosure of the use of a network. Although the article states that the inspections are done at any location "directed by the customer," there is no disclosure of any electronic communication over a network between any of the parties.

Applicants respectfully submit that the Pat Ludwick article contains no disclosure or suggestion of the use of a network. Therefore, it would not have been obvious to combine these references. Additionally, Applicants submit that Walker and the Pat Ludwick article provide conflicting teachings. As discussed above, Walker requires that the item be in the possession of the dealer/authenticator at the time of inspection. On the other hand, the Pat Ludwick article

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discloses “send[ing] out a licensed mechanic in a completely equipped van to any location directed by the customer.” This passage makes it clear that the vehicle is not in the possession of the inspector. Thus, the Pat Ludwick article teaches performing an inspection anywhere except in the possession of the inspector.

Thus, Walker and the Pat Ludwick article are in direct conflict with each other. According to MPEP §2143.01, “[w]here the teachings of two or more prior art references conflict, the examiner must weigh the power of each reference to suggest solutions to one of ordinary skill in the art, considering the degree to which one reference might accurately discredit another.” The Office Action proposes modifying Walker by providing for inspection of an item in the seller’s possession. However, such a modification would render the system of Walker useless. Walker discloses that “[w]hile the seller is typically unwilling to deliver the item until the buyer has paid in full, the buyer is likewise unwilling to pay for the item until the item has been delivered and inspected.” Column 2, lines 52-55.

Therefore, in the modified system proposed in the Office Action, the dealer/authenticator would be required to travel to the seller’s location to perform the investigation. Walker’s discloses mailing items to the dealer/authenticator. Column 11, lines 37-40. This passage implies that the sellers and dealer/authenticators are a significant distance from each other. Travel to the seller’s location would create a significant liability, as well as a significant financial and time burden on the inspector, even if a network of dealer/authenticators were put in place in major cities.

Further, such a system would not provide an assurance that the item has been delivered. In a system as proposed, it is unclear whether upon inspection, the item would be given to the dealer/authenticator to send to the buyer, or if the seller would directly send the item to the buyer. If the seller were to send the item to the buyer after inspection, the buyer would not have the above-mentioned assurances. Additionally, if the dealer/authenticator were to send the item to the buyer after inspection, the dealer/authenticator would essentially be maintaining an inventory. This is contrary to Walker, which discloses that “dealers become authenticators and derive profit from their expertise, without having to risk their capital in maintaining an inventory.” Column 3, lines 4-6.

Therefore, the modification proposed would eliminate the assurances of the system of Walker, and greatly increase costs by requiring extensive travel by the dealer/authenticator. MPEP §2143.01 also states that “[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” Therefore, Applicants respectfully submit that there is no suggestion or motivation to combine the teachings of Walker and the Pat Ludwick article.

With regard to the Examiner’s taking of Official Notice, Applicants acquiesce that “it is well known for buyers to submit orders for services they wish to receive.” However, Applicants submit that this Official Notice does not provide for the teachings which the Office Action states that the combination of Walker and the Pat Ludwick article lacks. That is, “inputting an order for a surrogate investigation of said product from the user to said first information-processing apparatus, and transmitting an instruction on said surrogate investigation from said first

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information-processing apparatus to said second information processing apparatus.” Therefore, for at least the forgoing reasons, Applicants respectfully submit that the combination of Walker, the Pat Ludwick article and Official Notice does not disclose the invention as claimed. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 2 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice, and in further view of Vanechanos, Jr. (U.S. Patent No. 5,884,309).

It is the position of the Office Action that the combination of Walker, the Pat Ludwick article and Official Notice discloses the invention as claimed, with the exception of a step of publishing information for designating a store and information about products dealt by said store on the network including first and second information-processing apparatus, wherein said user identifies a product for purchase among said published products. The Office Action states that this is a description of standard electronic commerce in a virtual mall, as taught by Vanechanos. In response, Applicants respectfully submit that claim 2 is patentable due to its dependency on claim 1, which Applicants submit is patentable for at least the reasons discussed above. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice or over Walker in view of the Pat Ludwick article, Vanechanos and Official Notice.

It is the position of the Office Action that the combination of Walker, the Pat Ludwick article and Official Notice teaches the invention as claimed, with the exception of disclosing that the step of inputting an order for a surrogate investigation includes designating the level of said investigation or a deadline for the answer of said investigation. However, the Office Action states that Walker discloses different levels of investigation (validation, authentication, and guarantee). In response, Applicants respectfully submit that claim 3 is patentable due to its dependency on claims 1 or 2, which Applicants submit are patentable for at least the reasons discussed above. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice.

As with claim 1, it is the position of the Office Action that the combination of Walker and the Pat Ludwick article discloses the invention as claimed, with the exception of disclosing inputting an order for a surrogate investigation of said product from the user to said first information-processing apparatus, and transmitting an instruction on said surrogate investigation from said first information-processing apparatus to said second information processing apparatus. The Office Action relies on Official Notice to provide this teaching. In response, Applicants

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respectfully submit that claim 4 is patentable for at least reasons similar to that of claim 1, as discussed above. Further, Applicants submit that the taking of Official Notice is insufficient for similar reasons as discussed above with regard to claim 1. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice, and in further view of Vanechanos.

It is the position of the Office Action that the combination of Walker, the Pat Ludwick article and Official Notice discloses the invention as claimed, with the exception of the acquiring means is operable to acquire the identification information of a product for purchase and the order in parallel with publishing information for designating a store and information about products dealt by said store on the network to provide said products to the user. The Office Action states that this is a description of standard electronic commerce in a virtual mall, as taught by Vanechanos. In response, Applicants respectfully submit that claim 5 is patentable at least due to its dependency on claim 4, which Applicants submit is patentable for at least the reasons discussed above. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice or over Walker in view of the Pat Luckwick article, Vanechanos and Official Notice.

It is the position of the Office Action that the combination of Walker, the Pat Ludwick article and Official Notice teaches the invention as claimed, with the exception of disclosing that the acquiring means is operable to acquire designated information about the level of said investigation or a deadline for the answer of said investigation. However, the Office Action states that Walker discloses different levels of investigation (validation, authentication, and guarantee). In response, Applicants respectfully submit that claim 6 is patentable due to its dependency on claims 4 or 5, which Applicants submit are patentable for at least the reasons discussed above. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice.

As with claims 1 and 4, it is the position of the Office Action that the combination of Walker and the Pat Ludwick article discloses the invention as claimed, with the exception of disclosing inputting an order for a surrogate investigation of said product from the user to said first information-processing apparatus, and transmitting an instruction on said surrogate investigation from said first information-processing apparatus to said second information processing apparatus. The Office Action relies on Official Notice to provide this teaching. In

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response, Applicants respectfully submit that claim 7 is patentable for at least reasons similar to that of claims 1 and 4, as discussed above. Further, Applicants submit that the taking of Official Notice is insufficient for similar reasons as discussed above with regard to claims 1 and 4. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice, and in further view of the Microsoft Press Computer Dictionary.

It is the position of the Office Action that the combination of Walker, the Pat Ludwick article and Official Notice discloses the invention as claimed, with the exception of disclosing a computer readable medium storing a program to be read in and executed on a computer is used to implement the server apparatus. The Office Action relies on the definitions of “program,” “disc,” and “disk” in the Microsoft Press Computer Dictionary to provide this teaching. In response, Applicants respectfully submit that claim 8 is patentable at least due to its dependency on claim 7, which Applicants submit is patentable for at least the reasons discussed above. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice.

As with claims 1, 4 and 7, it is the position of the Office Action that the combination of Walker and the Pat Ludwick article discloses the invention as claimed, with the exception of disclosing inputting an order for a surrogate investigation of said product from the user to said first information-processing apparatus, and transmitting an instruction on said surrogate investigation from said first information-processing apparatus to said second information processing apparatus. The Office Action relies on Official Notice to provide this teaching. In response, Applicants respectfully submit that claim 9 is patentable for at least reasons similar to that of claims 1, 4 and 7, as discussed above. Further, Applicants submit that the taking of Official Notice is insufficient for similar reasons as discussed above with regard to claims 1, 4 and 7. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice, and in further view of the Microsoft Press Computer Dictionary.

It is the position of the Office Action that the combination of Walker, the Pat Ludwick article and Official Notice discloses the invention as claimed, with the exception of disclosing a computer readable medium storing a program to be read in and executed on a computer is used to implement the server apparatus. The Office Action relies on the definitions of "program,"

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“disc,” and “disk” in the Microsoft Press Computer Dictionary to provide this teaching. In response, similar to claim 8, Applicants respectfully submit that claim 10 is patentable at least due to its dependency on claim 9, which Applicants submit is patentable for at least the reasons discussed above. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of the Pat Ludwick article and Official Notice.

As with claims 1, 4, 7 and 9, it is the position of the Office Action that the combination of Walker and the Pat Ludwick article discloses the invention as claimed, with the exception of disclosing inputting an order for a surrogate investigation of said product from the user to said first information-processing apparatus, and transmitting an instruction on said surrogate investigation from said first information-processing apparatus to said second information processing apparatus. The Office Action relies on Official Notice to provide this teaching. In response, Applicants respectfully submit that claim 11 is patentable for at least reasons similar to that of claims 1, 4, 7 and 9, as discussed above. Further, Applicants submit that the taking of Official Notice is insufficient for similar reasons as discussed above with regard to claim 1, 4, 7 and 9. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of Starr (U.S. Patent No. 3,672,224) and Official Notice.

It is the position of the Office Action that the combination of Walker and Official Notice discloses the invention as claimed, with the exception of teaching that the product is a representative sample of a plurality of products. The Office Action relies on Starr to provide a similar teaching. Starr is directed at a machine for random selection of a piece of fruit. Starr discloses that it is known to test a representative sample of a batch of items. The Office Action also refers to the article "Make UL's Operation Decoration Campaign Part of Your Holiday Decorating Plans" to provide this teaching. Accordingly, it is the position of the Office Action that "one can inspect a representative sample of a seller's stock of used collectible items, and draw conclusions based on whether items in that sample turn out to be authentic and in the condition advertised; therefore, Starr is held to be relevant and analogous art." Page 17 of the October 19, 2006 Office Action.

In response, Applicants respectfully submit that the Office Action's reliance on Starr is misplaced. While Applicants concede that it is known to inspect a representative sample of a plurality of items, such teaching is not compatible with Walker. Walker teaches that the dealer/authenticator 150 determines whether a collectible item such as a coin, stamp, or jewelry is authentic and in the condition described by the seller. Collectible items such as these are by nature of differing quality and condition, since they are used products. In fact, the collectible items of Walker may be one-of-a-kind or last-of-a-kind. Walker recognizes that in light of the

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rarity and differing quality of collectibles, “a mechanism [is provided] for assuring buyers and sellers that they will not be cheated by each other.” See column 3, lines 2-3.

The results of an investigation of a particular collectible would not necessarily be representative of a plurality of collectibles. The Office Action’s position is more properly directed to the *reputation* of the seller, not the quality of specific goods. As a matter of illustration, see Figure 7. Sellers 21897 and 28691 have for sale an “1863 \$2 ½ Gold Piece” in “VF+” condition. This fact cannot be considered representative to show that other items for sale by the same seller, whether similar goods or not, are in “VF+” condition. In fact, other types of goods may have different systems of grading condition (see “Condition” column: “UNC,” “NA,” “VF+” and “M5-63”). It may be true, however, that a representative sample taken of a particular seller may be considered to be representative of the advertised condition versus the actual condition. In other words, it may be argued that a representative sample of goods for sale by sellers 21897 and/or 28691 can show that these sellers accurately grade their goods. This would be a representative sample of *seller reputation*, not the *condition of goods*. However, this is not disclosed or suggested by Starr or by Walker. Additionally, this is beyond the scope of the claim limitation that “said *product* is a representative sample of a plurality of *products*.”

Therefore, although Applicants concede that Starr discloses that a product is a representative sample of a plurality of products, such a teaching is not properly combinable with Walker, for at least the reasons discussed above. Applicants respectfully traverse the rejection. Favorable reconsideration is respectfully requested.

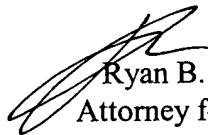
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For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

Should the Examiner deem that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants' undersigned attorney.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

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Ryan B. Chirnomas
Attorney for Applicants
Registration No. 56,527
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

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